

Attorney Docket No.: **43888-301**
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer No.20277
Yasuo TAKEBE, et al. : Confirmation No.: 7042
Serial No.: 10/820,159 : Group Art Unit: 1745
Filed: April 8 ,2004 : Examiner: TONY S. H. CHUO
For: FUEL CELL

ELECTION UNDER 35 U.S.C. § 121

Mail Stop Amendment
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed July 27, 2006, having a shortened statutory period for response set to expire August 27, 2006, wherein the Examiner required restriction between the following distinct Species:

- Species 1 - the embodiment of Figure 1;*
- Species 2 - the embodiment of Figure 2;*
- Species 3 - the embodiment of Figure 4;*
- Species 4 - the embodiment of Figure 6; and*
- Species 5 - the embodiment of Figure 7.*

Applicants elect, without traverse, Species 1, with claims 1-3, 7, 8, 11, 12 and 14 readable thereon, for initial prosecution on the merits. Applicants also reserve the right to file a Divisional Application for the non-elected claims, which the Examiner has indicated is patentably distinct.

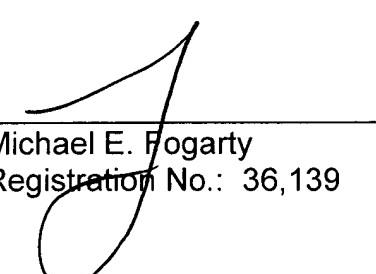
Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition for extension of time. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417. A duplicate copy of this Response is enclosed for accounting purposes.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date: 8/28/06

By:


Michael E. Fogarty
Registration No.: 36,139

600 13th Street, N.W., Suite 1200
Washington, D.C. 20005-3096
Telephone: 202 756 8000
Facsimile: 202 756 8087

WDC99 1276351-1.043888.0301